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**IN THE UNITED STATES DISTRICT COURT  
FOR THE NORTHERN DISTRICT OF CALIFORNIA  
SAN JOSE**

**VICKI R. SEIDEL** )  
Plaintiff, )  
v. )  
**UNITED STATES OF AMERICA,** )  
Defendant. )

CASE NO.: \_\_\_\_\_

## COMPLAINT

Vicki R. Seidel, by and through her attorneys, Robert Alan Jones, and John McCahill hereby files her complaint against the United States of America including its Commissioner of Internal Revenue and alleges as follows:

## I. Jurisdiction

1. The United States has waived sovereign immunity for the instant action under 26 U.S.C. § 7426.

2. The United States has further waived its rights under the Anti-Injunction Act under 26 U.S.C. § 7426(b)(1).

3. The instant action is brought pursuant 26 U.S.C. § 7426 which states in pertinent part:

If a levy has been made on property ... and any person (other than the person against whom is assessed the tax out of which such levy arose) who claims an interest in or lien on such property and that such property was wrongfully levied upon may bring a civil action against the United States in a District Court of the United States ... .

## II. Parties

4. Plaintiff, is Vicki R. Seidel, a married woman and the mother of young children. The Defendant is the United States Government, by and through its Department, United States Treasury Department, Internal Revenue Service.

### III. FACTS SUPPORTING THE CLAIMS

5. This is a complaint for replacement of monies wrongfully levied /seized on several occasions from a citizen who had no tax obligation to the United States government, nor the Internal Revenue Service, and was not related to the underlying transaction which is the cause of the seizures. (**Exhibit 1** - Declaration of Vicki Seidel).

6. Mr. Thomas Seidel, the president of T.E. Seidel Electric, Inc. ("Electric"), was allegedly assessed with a 100% penalty pursuant to 26 U.S.C. §6672 for failing to collect and pay over certain payroll taxes owed to the IRS on October 23, 1996. (Exhibit 1).

7. Mr. Seidel is married to Vicki Seidel, a California resident, and the Plaintiff herein. (Exhibit 1).

8. Mrs. Vicki Seidel was absolved of responsibility for any of Electric's payroll taxes in a letter from Steven Penrod of the IRS dated May 13, 1999. (Attached to Exhibit 1).

9 The seizures were in the absence of notice, demand, assessment or allowing Plaintiff a right to a due process hearing pursuant to IRC Sec. 6330, and Defendant may not prevail as a matter of law. Further, the ten year collections period following alleged assessment of the 100% penalty against Mr. Thomas E. Seidel has expired, and the penalty is no longer collectible against anyone as a matter of law.

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10. Additionally, the Federal Trust Fund Recovery Penalty was never assessed as alleged, and is therefore fraudulent, void and of no effect.

## **FIRST CLAIM FOR RELIEF**

11. Vicki Seidel, incorporates herein by reference all the facts and allegations as set forth in the preceding paragraphs 1 through 9 as if set forth in full herein.

12. Without notice and opportunity for a hearing, Defendant United States, wrongfully levied the bank account of Vicki Seidel, from Washington Mutual Bank, account no. 0980711488 on or about May 29, 2007 (See Notice of Levy , Exhibit 2).

13. The monies were wrongfully levied against a non-assessed taxpayer who was not the subject of the tax (penalty) without cause, lawful authority or notice and right to a hearing afforded the plaintiff, in violation of 26 U.S.C.A. §7433A.

14. There are no administrative remedies to be exhausted for the United States wrongfully seized the property of taxpayer A; Plaintiff, to pay off taxpayer B's debts without notice or demand..

15. Plaintiff seeks return of the seized amount of \$321.30 , plus lawful interest from that date, plus reasonable attorney's fees and costs, under IRC §7426(a), (h).

## **SECOND CLAIM FOR RELIEF**

16. Vicki Seidel, incorporates herein by reference all the facts and allegations as set forth in the preceding paragraphs 1 through 14 as if set forth in full herein.

17. Defendant United States on June 12, 2007 has wrongfully attempted to levy 100% of Vicki Seidel's salary from her employment ignoring statutory exemptions. (See levy, Exhibit 3). The amounts subject to levy are about \$4,400. for June, 2007

18. There are no administrative remedies to be exhausted for the United States wrongfully seized the property of taxpayer A: Plaintiff to pay off taxpayer B's debts without notice or demand. Plaintiff was not afforded any notice, or opportunity for hearing.

19. Plaintiff seeks restoration to her bi-monthly compensation of any and all amounts withheld from her paycheck by her employer on account of the above referenced levy whether or not surrendered to the Secretary of the Treasury.

## **THIRD CLAIM FOR RELIEF**

20. Vicki Seidel, incorporates herein by reference all the facts and allegations as set forth in the preceding paragraphs 1 through 19 as if set forth in full herein

21. Levy of 100% of Vicki Seidel's salary on a continuing basis is against the intent of the Internal Revenue Code and public policy.

22. Although the IRS may not prevail as a matter of law, or public policy, Vicki Seidel has no adequate remedy at law as this current levy is interfering with her employment relationship with her employer and her professional reputation in the employment community in which she works.

23. Vicki Seidel will prevail on the merits of this action *inter alia* because her property has been seized without due process, or the receipt of notice and the opportunity for her to defend her property in either a court proceeding, or a due process hearing.

24. Vicki Seidel is the mother of infant children and the seizure of 100% of her compensation will irreparably injure her and her children in that she will not have the funds available to her to support her children and herself

25. Therefore, in accord with IRC Sec. 7426 (b)(1) Vicki Seidel seeks by this action and is entitled to a preliminary and permanent injunction to restrain the United States, and its officers and agents including specifically the Commissioner of the IRS and his employees and agents from seizing, levying and garnishing any property in which Mrs. Seidel owns or has an interest, on account of the aforementioned alleged 100% penalty assessment against Thomas E. Seidel.

## **FOURTH CLAIM FOR RELIEF**

26. Vicki Seidel, incorporates herein by reference all the facts and allegations as set forth in the preceding paragraphs 1 through 19 as if set forth in full herein.

27. IRS Collections Officer Joe Smith has recklessly, intentionally, and negligently after clear notice orally and in writing from Mrs. Vicki Seidel's duly authorized, undersigned attorneys disregarded the internal revenue laws of the United States including specifically the rights and obligations attendant to seizure of private property without due process, therefore the Plaintiff is entitled to damages in an amount of up to \$1,000,000., the exact amount to be proven at trial, plus

1 the plaintiff is entitled to recover the costs of this action.

2 **WHEREFORE**, Plaintiff, Vicki Seidel, prays for an entry of a money judgment and other  
3 relief in her favor as follows:

4 A. The return of the monies seized in the amount of \$321.30, plus lawful interest  
5 from the date of seizure, plus reasonable attorney's fees and costs, as provided under  
IRC §7426.

6 B. The return of the amount of compensation for employment seized, plus lawful  
7 interest from the date of seizure, plus reasonable attorney's fees and costs, as  
provided under IRC §7426.

8 C. Permanent injunctive relief in regards to levies and other collection efforts by the  
9 IRS, including levies of her bank accounts and levies of 100% compensation for her  
employment.

10 D. Damages pursuant to IRC Sec.7426(h) of up to \$1,000,000.

11 E. Reasonable attorney's fees and costs of the instant action.

12 F. For such other and further relief as the Court may deem necessary and proper.

14 DATED: This 13<sup>th</sup> day of June, 2007.

15 Respectfully submitted,

17 Robert Alan Jones, Esq.  
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**CERTIFICATE OF SERVICE**

This is to certify that on June 13, 2007, I caused to be served the foregoing **COMPLAINT**, by First Class U.S. Mail, postage paid envelope, to the following:

U.S. Department of Justice  
USA Scott N. Schools  
150 Almaden Blvd., Suite 900  
San Jose, CA 95113  
(408) 535-5061

Dated this 13<sup>th</sup> day of June, 2007.

## Office of Robert Alan Jones